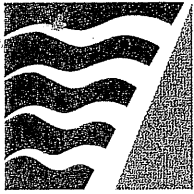


EXHIBIT 11.08

FUNDING AGREEMENTS

As of the date of the Extended and Second Amended Agreement:

(1) the Funding Agreement Between the Bay Area Air Quality Management District ("BAAQMD") and City of Sunnyvale Project Number 00R17, including item 15 of Section II and item 11 of Attachment A thereof.



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

January 8, 2003

Mark Bowers
Solid Waste Program Manager
Department of Public Works
City of Sunnyvale
PO Box 3707
Sunnyvale, California 94088

RE: Project #02R18 - Heavy Duty Vehicle Replacement
- 5 Natural Gas Refuse Trucks

Dear Mr. Bowers:

Enclosed is a signed copy of the Funding Agreement between the City of Sunnyvale and the Air District. We will forward the funds for the project in accordance with the schedule set forth in Attachment A of the Agreement.

Please note the quarterly reporting requirements specified in Attachment C and mark your calendar accordingly.

Please refer to the above project number in all correspondence with the Air District. If you have any questions, please contact me at (415) 749-4982.

Sincerely,

A handwritten signature in black ink, appearing to read "Vanessa Mongeon".

Vanessa Mongeon
Environmental Planner II

Enclosures

JAN 10 2003

FUNDING AGREEMENT
BETWEEN
THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT
AND
CITY OF SUNNYVALE

PROJECT NUMBER

02R18

This Agreement is made and entered into between the City of Sunnyvale, hereinafter referred to as "Project Sponsor," and the Bay Area Air Quality Management District, hereinafter referred to as the "Air District." Attachment A, Project Specific Information; Attachment B, Project Description; and Attachment C, Monitoring of Project Performance are hereby incorporated into this Agreement by this reference.

SECTION I

RECITALS:

- 1) Air District is authorized under California Health and Safety Code Sections 44223 and 44225 to levy a fee on motor vehicles registered within its jurisdiction. Funds generated by the fee are to be used to implement projects and programs to reduce air pollution from motor vehicles.
- 2) Air District administers these funds as the Transportation Fund for Clean Air (TFCA).
- 3) California Health and Safety Code Section 44241 limits expenditure to specified eligible transportation control measures included in the clean air plan adopted pursuant to California Health and Safety Code Sections 40233, 40717, and 40919, and limits the allocation of the funds to public agencies within the Air District's jurisdiction.
- 4) Air District and Project Sponsor, pursuant to California Health and Safety Code Section 44241, hereby enter into this Funding Agreement (Agreement) to implement a transportation measure (Project) to improve air quality in the San Francisco Bay Area Air Basin.
- 5) The Project, as used in this Agreement, is described on Attachment B.

SECTION II

PROJECT SPONSOR AGREES:

- 1) To implement the Project in accordance with the description and implementation schedule contained on Attachment B.
- 2) To submit detailed invoices to the Air District for reimbursement of costs and expenses incurred to complete the Project consistent with the budget and schedule contained on Attachment A. Invoices shall specify the time period for the invoice, itemize staff charges to the Project, if any, indicating the number of hours worked on the Project; and itemize any payments to vendors, consultants, or contractors with an explanation of the goods or services provided for the Project.
- 3) To keep necessary records of Project activities, expenses and charges to document and support invoices submitted to the Air District.
- 4) To return to the Air District unexpended TFCA funds and/or interest earned on TFCA funds, if any, upon completion or termination of the Project.
- 5) To allow and facilitate Air District audit of Project performance and all expenditures relating to the Project funded through this Agreement.

- 6) To record on a time sheet those hourly labor costs incurred in the implementation of the Project which are paid with TFCA funds received under this Agreement, or to establish an alternative method approved by the Air District to document staff costs charged to the Project.
- 7) To use no more than five percent of the TFCA funds received under this Agreement for costs incurred in the administration of the Project consistent with the line item Project budget specified in Attachment A.
- 8) To keep necessary records of Project performance as specified on Attachment C.
- 9) To submit to the Air District all reports set forth on Attachment C by the specified due dates.
- 10) To use the Air District's approved logo for the Transportation Fund for Clean Air on any vehicles leased or purchased with TFCA funds, or on any other capital property purchased with TFCA funds that is visible to the public.
- 11) To use the Air District's approved logo for the Transportation Fund for Clean Air, or to acknowledge the Air District as a funding source, on any printed or electronic material for public distribution associated with the Project. Included as printed material are Project related schedules, brochures, handbooks, or promotional material. Included as electronic material are Project related web sites, electric signs, or e-mail broadcasts.
- 12) To acknowledge the Air District as a funding source for the Project in any related media events, articles, news releases or other publicity materials.
- 13) To assure that all funds received under this Agreement are expended only in accordance with all applicable provisions of law and with the terms and conditions of this Agreement.
- 14) To expend those "Matching Funds," if any, as listed on Attachment A, toward completion of the Project as described on Attachment B. In the event funding from other sources for the total cost of the Project as set forth in Attachment A is not received, in whole, by the Project Sponsor, the Air District reserves the right to renegotiate the terms and conditions of this Agreement.
- 15) To return to the Air District any funds realized from the sale of any motor vehicle(s) purchased with TFCA funds if such sale occurs within the industry standards for the useful life from the date of purchase of the motor vehicle(s). The amount of the funds returned to the Air District shall be proportional to the percentage of TFCA funds originally used to purchase the motor vehicle(s).
- 16) To place in the public domain any software, written document, intellectual property, process, technique, or product developed with TFCA funds as part of the Project.
- 17) To comply with those "Special Conditions," if any, listed on Attachment A.

SECTION III

AIR DISTRICT AGREES:

- 1) To pay within 30 calendar days of receipt, invoices for reimbursement of legitimate Project expenses submitted by the Project Sponsor, excepting that the Air District will retain fifteen percent (15%) of the "Total TFCA Regional Funds Awarded" as listed on Attachment A until the Air District's acceptance of the final report as specified on Attachment C.
- 2) To provide TFCA funds not to exceed the "Total TFCA Regional Funds Awarded" amount for this Project as listed on Attachment A.
- 3) To provide timely notice prior to conducting an audit.
- 4) To provide a copy of any fiscal audits of the Project as specified in California Health and Safety Code Section 44242.

SECTION IV

IT IS MUTUALLY AGREED:

- 1) Term: This Agreement will remain in effect for three (3) years after the completion of the Project unless terminated as provided below.
- 2) Termination: Either party may terminate this Agreement at any time by giving written notice of termination to the other party which shall specify the effective date thereof. Notice of termination under this paragraph shall be given at least thirty (30) days before the effective date of such termination. Upon receiving notice of termination, Project Sponsor shall immediately cease further expenditure of TFCA funds received under this Agreement. The Air District will reimburse Project Sponsor for qualifying expenditures on the Project made prior to the receipt of the notice of termination.
- 3) Indemnity: Project Sponsor shall indemnify and hold harmless the Air District its officers, employees, agents, representatives, and successors-in-interest against any and all claims, suits or actions resulting from the performance by Project Sponsor of its duties under this Agreement. Air District shall indemnify and hold harmless Project Sponsor its officers, employees, agents, and successors-in-interest against any and all claims, suits or actions resulting from the performance by Air District of its duties under this Agreement.
- 4) Notices: Any notice which may be required under this Agreement shall be in writing, shall be effective when received, and shall be given by personal delivery service or first class mail, to the addressees set forth on Attachment A, or to such addressees which may be specified in writing to the parties hereto.
- 5) Contacts: Project Sponsor and Air District persons to act as contacts and liaison with the Air District and the Project Sponsor with regards to the day-to-day activities of the Project are specified on Attachment A. All reports and correspondence are to be addressed to the "Contacts" listed on Attachment A.
- 6) Project Number: All correspondence shall reference the "Project Number" listed on Attachment A.
- 7) Additional Acts and Documents: Each party agrees to do all such things and take all such actions, and to make, execute and deliver such other documents and instruments, as shall be reasonably requested to carry out the provisions, intent and purpose of this Agreement.
- 8) Integration: This Agreement represents the entire Agreement of the parties with respect to the subject matter described in this Agreement, and no representation, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in other contemporaneous written agreements.
- 9) Amendment: This Agreement may not be changed, modified or rescinded except in writing and signed by the parties hereto. Any attempt at oral modification of this Agreement shall be void and of no effect. The Air District contact person and Project Sponsor contact person identified pursuant to paragraph IV.5 above may jointly authorize, in writing, any schedule revisions, budget line item revisions, or changes to the Project scope of work that do not diminish the emission reductions associated with the Project. Any other amendments to this Agreement must be executed in writing by the signators to this Agreement. Any change in Project scope must be approved by the Air District prior to implementation of the change by the Project Sponsor.

- 10) Independent Contractor: Project Sponsor renders its service under this Agreement as an independent contractor. None of the Project Sponsor's agents, subcontractors or employees shall be construed as agents or employees of the Air District. This paragraph does not apply to elected officials serving concurrently on the governing boards of both the Project Sponsor and Air District.
- 11) Assignment: This Agreement may not be assigned, transferred, hypothecated, subcontracted or pledged by any party without the express written consent of the other party.
- 12) Severability: Should any part of this Agreement be declared unconstitutional, invalid, or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this Agreement which shall continue in full force and effect; provided that, the remainder of this Agreement can, absent the invalid portion(s), reasonably be interpreted to give effect to the intentions of the parties.
- 13) Effective Date: The effective date of this Agreement is the date of signature by the Air Pollution Control Officer as listed on page 5.
- 14) Schedule for Eligible Costs: Only Project costs incurred after the "Air District Approval Date" listed on Attachment A, and before completion of Project and fulfillment of monitoring requirements or termination, whichever occurs first, are eligible to receive TFCA funds.
- 15) Cost Reduction: The Air District may reduce its contribution to the Project in the event that the "Total Project Cost" is less than the amount listed on Attachment A. Any reduction in TFCA funding shall be proportional to the percentage of TFCA funds provided toward the total project cost as noted on Attachment A.
- 16) Penalty: If the Air District finds Project Sponsor to be in violation of paragraphs II.9, II.10, or II.11 above, the Air District shall notify the Project Sponsor of the violation(s) and shall allow the Project Sponsor thirty (30) calendar days to remedy said violation(s). If the Project Sponsor fails to remedy the violation(s) within thirty (30) calendar days, the Air District may decrease the total TFCA Regional Funds awarded for the Project by up to ten percent (10%).
- 17) Project Cost: Project cost overruns are the sole responsibility of the Project Sponsor. The Air District's funding obligation is limited to the "Total TFCA Regional Funds Awarded" as listed on Attachment A. Acceptance of this funding agreement obligates the Project Sponsor to deliver the Project according to the terms and conditions of this Agreement.
- 18) Force Majeure: Neither the Air District nor Project Sponsor shall be liable or deemed to be in default for any delay or failure in performance under this Funding Agreement or interruption of services, directly or indirectly, from the acts of God, civil or military authority, acts of public enemy, war, strikes, labor disputes, shortages of suitable parts, materials, labor or transportation, or any similar cause beyond the reasonable control of the Air District or Project Sponsor.
- 19) Governing Law: This Funding Agreement shall be construed and interpreted and the legal relations created thereby shall be determined in accordance with the laws of the State of California.

SIGNATURES:

by: Robert S. LaSala
Robert S. LaSala
City Manager
City of Sunnyvale

by: William C. Norton
William C. Norton
Executive Officer/APCO
Bay Area Air Quality Management District

Date: 1-7-03

Approved as to legal form:

by: Dorothy B. DCA
Legal/Counsel
City of Sunnyvale

by: Brian C. Bunker
Brian C. Bunker
District Counsel
Bay Area Air Quality Management District

Attest: Susan Kitchens
Susan Kitchens, City Clerk
12-13-02

**ATTACHMENT A
PROJECT SPECIFIC INFORMATION**

[Note: The section numbers shown in parenthesis below refer to Sections in the Funding Agreement.]

1. **Project Sponsor:** City of Sunnyvale
2. **Project Number:** 02R18
3. **Total TFCA Regional Funds Awarded (Section III.2):** \$250,000

The Air District will fund the documented incremental cost of five (5) compressed natural gas (CNG) trucks to a maximum of \$250,000 in TFCA Regional Funds; i.e., up to \$50,000 per vehicle.

4. **Total Project Cost (Section IV.15):** \$1,502,617
5. **Matching Funds (Section II.13):** \$1,252,617

<u>Source</u>	<u>Amount</u>
City of Sunnyvale/Bay Counties Waste Services	\$1,252,617

6. **Total Line Item Project Budget:**

<u>Line Item</u>	<u>Amount</u>
Capital Equipment – Five (5) new, heavy-duty, CNG-fueled refuse trucks	\$1,502,617

7. **Invoice and Payment Schedule (Section II.2):** The City of Sunnyvale shall submit invoices for reimbursement after the vehicles are delivered and placed into service. Invoices shall document the vehicle and engine specifications, and shall clearly document the incremental cost of the vehicles. Per Section III.1 of this Agreement, the Air District will withhold fifteen percent (15%) of the TFCA funds awarded, pending approval of the final report as listed in Attachment C.

Final Invoice: The final invoice for reimbursement of fifteen percent (15%) of the total awarded TFCA Regional Funds is to be submitted with the final report as listed in Attachment C.

8. **Notices (Section IV.4):** Any written notice required is to be addressed to:

Project Sponsor:
Robert S. LaSala
City Manager
City of Sunnyvale
P.O. Box 3707
Sunnyvale, CA 94088-3707

Air District:
William C. Norton
Executive Officer/APCO
Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109

9. **Contacts (Section IV.5):** Contact persons for day-to-day activities of the Project are:

Project Contact:
Mark A. Bowers
Solid Waste Program Manager
City of Sunnyvale, Department of Public Works
P.O. Box 3707
Sunnyvale, CA 94088-3707
Mbowers@ci.sunnyvale.ca.us

Air District:
Vanessa Mongeon
Environmental Planner II
Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109
vmongeon@baaqmd.gov

10. Air District Approval Date (Section IV.14): September 18, 2002

11. Special Conditions (Section II.16):

- A. The City of Sunnyvale shall make these conditions part of any fund transfer agreements between the City of Sunnyvale and Bay Counties Waste Services (BCWS).
- B. The City of Sunnyvale shall submit to the Air District for review and approval any operational and fund transfer agreements between the City of Sunnyvale and Bay Counties Waste Services prior to their execution.
- C. The City of Sunnyvale shall provide the Air District with a copy of any agreements executed between Bay Counties Waste Services and the City to carry out the Project.
- D. Per Section II.10 of this Agreement, the project sponsor shall install the TFCA decal on vehicles acquired with TFCA funds.
- E. Per Section II.11 of this Agreement, the project sponsor shall acknowledge the TFCA as a funding source in all promotional material (e.g., press releases, brochures, schedules, etc.).
- F. The City of Sunnyvale shall ensure that Bay Counties Waste Services dismantles and scraps five (5) refuse trucks (or equivalent vehicles) in the BCWS fleet. Proof that five (5) refuse trucks (or equivalent vehicles) have been scrapped shall be included in the Final Report submitted to the Air District pursuant to Attachment C.
- G. The City of Sunnyvale shall monitor the status of the vehicles acquired under the terms of this Agreement. The City of Sunnyvale shall inform the Air District staff contact within 30 days of any changes in the operational status of these vehicles. This includes the sale of any vehicle to a new owner, the transfer of any vehicle to a new location, or the withdrawal of any vehicle from active refuse collection within the City of Sunnyvale.

**ATTACHMENT B
PROJECT DESCRIPTION**

The TFCA funding application dated June 27, 2002, is incorporated herein by this reference.

Project Title: Heavy Duty Vehicle Replacement: 5 Natural Gas Refuse Trucks

Project Description: Bay Counties Waste Services (BCWS), in cooperation with the City of Sunnyvale, shall purchase five (5) new Autocar Expeditior LL64 heavy-duty refuse trucks equipped with new Cummins 8.3-liter natural gas engines. The engines must achieve an emission level of 1.5 g/bhp-hr of NOx (or lower) as tested by the California Air Resources Board (CARB). The City of Sunnyvale shall require BCWS to operate the five (5) CNG refuse trucks procured with this grant within the boundaries of the Air District for a minimum of eight (8) years.

BCWS shall dismantle and scrap five (5) refuse trucks (or equivalent vehicles) in its existing fleet.

Project Schedule:

Project start date	November 1, 2002
Place order for two (2) new refuse recycling trucks	December 1, 2002
Delivery of two (2) new refuse recycling trucks	July 1, 2003
Place two (2) new refuse recycling trucks into service	September 1, 2003
Place order for two (2) new front-load refuse trucks and one (1) new refuse truck	November 1, 2003
Delivery of two (2) new front-load refuse trucks and one (1) new refuse trucks	August 1, 2004
Place two (2) new front-load refuse trucks and one (1) new refuse truck into service	October 1, 2004
Final report submission	January 1, 2005

Project Goal: The goal of this project is to reduce on-road motor vehicle emissions of ozone precursors and particulate matter by promoting the use of low emission, natural gas vehicles by Bay Counties Waste Services within the jurisdiction of the Bay Area Air Quality Management District.

ATTACHMENT C
MONITORING OF PROJECT PERFORMANCE

Quarterly Reports:

Due Dates: January 15, 2003, April 15, 2003, July 15, 2003, October 15, 2003, January 15, 2004, April 15, 2004, July 15, 2004, October 15, 2004 and quarterly thereafter until all vehicles have been delivered and placed into service.

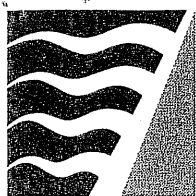
Quarterly reports shall summarize progress in project implementation, describe any problems encountered, and note any potential need for changes in the project implementation schedule. Quarterly reports shall be submitted based upon the format provided by the Air District. Each quarterly report will provide an update of the project status, including any changes to the projected delivery date of the vehicles.

Project Monitoring Requirements and Final Report:

Due Date: January 1, 2005

The project sponsor shall submit the following information in a format approved by the Air District:

1. A description of the heavy-duty Autocar Expedito refuse trucks purchased as part of the Project, including make, model, engine size, engine year, engine family, and Vehicle Identification Numbers (VIN).
2. A summary of any problems encountered in the initial operation of the vehicles acquired with this grant.
3. Documentation demonstrating that five (5) diesel-powered refuse trucks (or equivalent vehicles) have been removed from service and destroyed (i.e., destruction of the engine block and frame/chassis) in accordance with TFCA policy #14.
4. Documentation that TFCA decals have been installed on the newly purchased vehicles in accordance with Section II.10 of this Agreement.
5. Any future plans to purchase similar vehicles.



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

October 16, 2001

Gail M. Bentley
Solid Waste Program
Department of Public Works
City of Sunnyvale
P.O. Box 3707
Sunnyvale, CA 94088-3707

Dear Ms. ^{Gail}~~Bentley~~,

As you know, the Bay Area Air Quality Management District Board of Directors has approved your grant applications for funding from the Carl Moyer Fuel Infrastructure Program for Project CEC-1, the construction and operation of a compressed natural gas fueling facility. We commend your efforts to help reduce air pollution.

Enclosed for your review is a proposed Funding Agreement for the Carl Moyer Fuel Infrastructure grant awarded to the City of Sunnyvale. Each Agreement sets forth the terms, conditions, and record keeping requirements of the grant. The Air District reserves the right to reconsider and potentially cancel the grants if the enclosed Funding Agreements are not signed by November 16, 2001.

Please refer to the above project number in all correspondence with the Air District. If you have any questions, please contact me at: (415) 749-4982, or e-mail: mnichols@baaqmd.gov. If you wish to accept these grants, please sign the enclosed two originals of each Funding Agreement and return both to: **Matt Nichols, BAAQMD, 939 Ellis Street, San Francisco, CA 94109.**

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Nichols".

Matt Nichols
Environmental Planner II

enclosures

CARL MOYER FUEL INFRASTRUCTURE GRANT AGREEMENT
BETWEEN
THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT
AND
THE CITY OF SUNNYVALE

CEC-1

DEC 10 2011

This Agreement is made and entered into between the City of Sunnyvale, hereinafter referred to as "Grantee," and the Bay Area Air Quality Management District, hereinafter referred to as the "Grantor" or "Air District," interchangeably. Attachment A, Project Specific Information, is hereby incorporated into this Agreement by this reference.

SECTION I

GRANTEE AGREES:

- 1) To implement the Project in accordance with the description and implementation schedule contained on Attachment A. Failure to implement the Project in accordance with the description and implementation schedule contained on Attachment A may result in the termination of this Agreement. Both the Project description and implementation schedule may be modified consistent with Section III.10 of this Agreement. The Project, as used in this Agreement, is described on Attachment A.
- 2) To submit invoices to the Air District for reimbursement of costs and expenses incurred to complete the Project consistent with the Project description and schedule contained on Attachment A. Invoices may be submitted as soon as costs are incurred, but by no later than specified in the schedule in Attachment A. The invoices shall itemize labor charges to the Project, if any, indicating the number of hours worked on the Project; and itemize any payments to vendors, consultants, or contractors with an explanation of the goods or services provided for the Project.
- 3) To keep necessary records of Project activities, expenses and charges to document and support the invoices submitted to the Air District.
- 4) To keep necessary records for a period of seven (7) years from the completion of the Project documenting the annual amount of fuel dispensed by the facility purchased as part of the Project.
- 5) To allow and facilitate Air District review of Project performance and all expenditures relating to the Project funded through this Agreement.
- 6) To acknowledge the Air District and the Carl Moyer Fuel Infrastructure Program as a funding source for the Project in any related media events, articles, news releases or other publicity materials.
- 7) To assure that all funds received under this Agreement are expended only in accordance with all applicable provisions of law and implementation regulations.
- 8) To return to the Air District any Carl Moyer Fuel Infrastructure Program funds used to purchase and install any fueling facilities as part of the Project if the CNG fueling facility fails to meet the natural gas throughput requirements of 14,280 million British thermal units (BTUs), averaged over a consecutive five (5) year period. Amount to be repaid will be prorated based on the percentage that the throughput is less than the minimum requirements. Failure to submit annual Operational Reports, including throughput data, to the Air District may be taken to mean that the station had zero throughput for that time period.
- 9) To comply with those "Special Conditions," if any, listed on Attachment A.

SECTION II

AIR DISTRICT/GRANTOR AGREES:

- 1) To reimburse the Grantee for legitimate Project expenses within 30 calendar days of receipt by Air District of invoices specified in Attachment A. Final payment will be made once Air District has verified that Grantee has completed the Project. Verification by Air District will include physical inspection of the installed fueling facility specified on Attachment A.
- 2) To provide funds not to exceed the "Total Carl Moyer Fuel Infrastructure Funds Awarded" amount for this Project as listed on Attachment A.

SECTION III

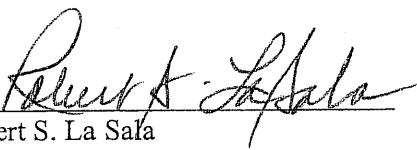
IT IS MUTUALLY AGREED:

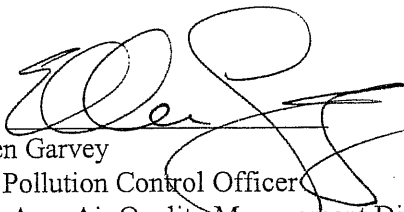
- 1) Authority: This Agreement is made pursuant to the California Air Resources Board's Carl Moyer Program as established in Health & Safety Code Section 44280. Any questions or disputes the parties may have in the implementation of this grant agreement shall be resolved by reference and adherence to the terms and conditions of the Carl Moyer Fuel Infrastructure Program as promulgated by the California Energy Commission.
- 2) Term: This Agreement will remain in effect for seven (7) years after the completion of the Project unless terminated as provided below.
- 3) Termination: Except as provided in Section I.2, either party may terminate this Agreement at any time prior to transfer of funds by giving written notice of termination to the other party which shall specify the effective date thereof. Notice of termination under this paragraph shall be given at least thirty (30) days before the effective date of such termination. Upon receiving notice of termination, Grantee shall immediately cease further expenditure of Carl Moyer Fuel Infrastructure Program funds received under this Agreement. The Air District will reimburse Grantee for qualifying expenditures on the Project made prior to the receipt of the notice of termination.
- 4) Indemnification: Grantee shall indemnify and hold harmless the Air District/Grantor, its officers, employees, agents, representatives, and successors-in-interest against any and all claims, suits or actions resulting from the performance by Grantee of its duties under this Agreement. Air District shall indemnify and hold harmless Grantee its officers, employees, agents, and successors-in-interest against any and all claims, suits or actions resulting from the performance by Air District of its duties under this Agreement.
- 5) Notices: Any notice which may be required under this Agreement shall be in writing, shall be effective when received, and shall be given by personal delivery service or first class mail, to the addressees set forth on Attachment A, or to such addressees which may be specified in writing to the parties hereto.
- 6) Contacts: Grantee and Air District persons to act as contacts and liaison with the Air District and the Grantee with regards to the day-to-day activities of the Project are specified on Attachment A. All reports and correspondence are to be addressed to the "Contacts" listed on Attachment A.
- 7) Project Number: All correspondence shall reference the "Project Number" listed on Attachment A.
- 8) Additional Acts and Documents: Each party agrees to do all such things and take all such actions, and to make, execute and deliver such other documents and instruments, as shall be reasonably requested to carry out the provisions, intent and purpose of this Agreement.
- 9) Entire Agreement: This Agreement represents the entire Agreement of the parties with respect to the subject matter described in this Agreement, and no representation, warranties, inducements or oral

agreements have been made by any of the parties except as expressly set forth herein, or in other contemporaneous written agreements.

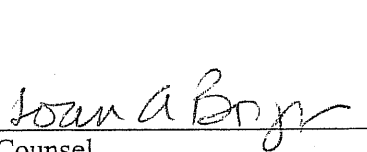
- 10) Amendment: This Agreement may not be changed, modified or rescinded except in writing and signed by the parties hereto. Any attempt at oral modification of this Agreement shall be void and of no effect. The Air District contact person and Grantee contact person identified pursuant to paragraph III.6 above may jointly authorize, in writing, any schedule revisions or changes to the Project scope of work that do not diminish the emission reductions associated with the Project. Any other amendments to this Agreement must be executed in writing by the signatories to this Agreement. Any change in Project scope must be approved by the Air District prior to implementation of the change by the Grantee.
- 11) Independent Contractor: None of the Grantee's agents, subcontractors or employees shall be construed as agents or employees of the Air District.
- 12) Assignment: This Agreement may not be assigned, transferred, hypothecated, subcontracted or pledged by Grantee without the express written consent of the Grantor/Air District.
- 13) Severability: Should any part of this Agreement be declared unconstitutional, invalid, or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this Agreement which shall continue in full force and effect; provided that, the remainder of this Agreement can, absent the invalid portion(s), reasonably be interpreted to give effect to the intentions of the parties.
- 14) Effective Date: The effective date of this Agreement is the date of signature by the Executive Officer/Air Pollution Control Officer as listed on page 5.
- 15) Schedule for Eligible Costs: Only Project costs incurred after the "Air District Approval Date" listed on Attachment A, and before completion of Project or termination, whichever occurs first, are eligible to receive Carl Moyer Fuel Infrastructure Program funds.
- 16) Cost Reduction: The Air District may reduce its contribution to the Project in the event that the "Total Project Cost" is less than the amount listed on Attachment A. Any reduction in Carl Moyer Fuel Infrastructure Program funding shall be in the same percentage as the reduction in total project cost from that noted on Attachment A.
- 17) Project Cost: Project cost overruns are the sole responsibility of the Grantee. The Air District's funding obligation is limited to the "Total Carl Moyer Fuel Infrastructure Program Funds Awarded" as listed on Attachment A. Acceptance of this funding agreement obligates the Grantee to deliver the Project according to the terms and conditions of this Agreement.
- 18) Force Majeure: Neither the Air District nor Grantee shall be liable or deemed to be in default for any delay or failure in performance under this Funding Agreement or interruption of services, directly or indirectly, from the acts of God, civil or military authority, acts of public enemy, war, strikes, labor disputes, shortages of suitable parts, materials, labor or transportation, or any similar cause beyond the reasonable control of the Air District or Grantee.
- 19) Governing Law: This Funding Agreement shall be construed and interpreted and the legal relations created thereby shall be determined in accordance with the laws of the State of California.
- 20) Right to Claim Emission Reductions: The Air District retains the exclusive right to claim any emission reduction credits under state or federal law that might result from emissions reduced by the Project implemented pursuant to this Agreement.

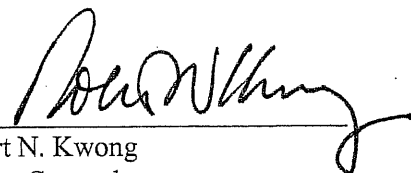
SIGNATURES:

by: 
Robert S. La Sala
City Manager
City of Sunnyvale

by:  Date: 11.26.01
Ellen Garvey
Air Pollution Control Officer
Bay Area Air Quality Management District

Approved as to legal form:

by: 
Joan A. Boyer
Legal Counsel
City of Sunnyvale

by: 
Robert N. Kwong
District Counsel
Bay Area Air Quality Management District

**ATTACHMENT A
PROJECT SPECIFIC INFORMATION**

[Note: The section numbers shown in parenthesis below refer to Sections in the Funding Agreement.]

1. **Project Sponsor:** City of Sunnyvale
2. **Project Number (Section III.7):** CEC-1
3. **Total Carl Moyer Infrastructure Funds Awarded (Section III.2):** \$200,000
4. **Total Project Cost (Section IV.15):** \$500,000
5. **Matching Funds (Section II.13):** \$300,000

<u>Source</u>	<u>Amount</u>
City of Sunnyvale	\$300,000

6. **Total Line Item Project Budget:**

<u>Line Item</u>	<u>Amount</u>
Capital Equipment – Compressed Natural Gas Fueling Facility	\$500,000

7. **Invoice and Payment Schedule (Section II.2):**

The Carl Moyer Fuel Infrastructure Program funds were paid to the City of Sunnyvale on March 21, 2002.

8. **Notices (Section IV.4):** Any written notice required is to be addressed to:

Project Sponsor:
Mark A. Bowers
Solid Waste Program Manager
City of Sunnyvale, Dept. of Public Works
P.O. Box 3707
Sunnyvale, CA 94088-3707

Air District:
William Norton
Executive Officer/APCO
Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109

9. **Contacts (Section IV.5):** Contact persons for day-to-day activities of the Project are:

Project Contact:
Gail M. Bentley
Solid Waste Program
Department of Public Works
City of Sunnyvale
P.O. Box 3707
Sunnyvale, CA 94088-3707

Air District:
Michael Murphy
Principal Environmental Planner
Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109

10. **Air District Approval Date (Section IV.14):** December 21, 2000

11. **Special Conditions (Section II.16):** The City of Sunnyvale will require that Bay County Waste Services (BCWS) and Pinnacle CNG Company operate the natural gas fueling facility for a minimum of seven (7) years. The City of Sunnyvale will make these conditions part of any fund transfer agreements between the City of Sunnyvale and BCWS. The City of Sunnyvale will provide the Air District with a copy of any agreements executed between BCWS and itself to carry out the Project.

The CNG fueling facility must meet the required annual throughput requirements of 14,280 million BTUs, averaged over a consecutive five (5) year period, otherwise the Air District shall require repayment on a percentage short basis. A maximum two (2) year phase in period may be allowed to acquire throughput; thereafter, the fueling facility shall dispense a minimum of 14,280 million BTUs annually over the subsequent five (5) year period. Failure to submit annual Operational Reports including throughput data to the Air District may be taken to mean that the station had zero throughput for that time period.

**ATTACHMENT B
PROJECT DESCRIPTION**

Project Title: Natural Gas Fueling Infrastructure – City of Sunnyvale

Project Description: Bay Counties Waste Services, Inc. (d.b.a. Specialty Solid Waste & Recycling), in cooperation with the City of Sunnyvale, will purchase compressed natural gas fueling equipment and install a CNG fueling facility at 3355 Thomas Road, Santa Clara, California for refuse and recycling vehicles serving the City of Sunnyvale. The fueling facility will be operated and managed by Pinnacle CNG Company under a service agreement with BCWS. The station will also be available to other agencies and the general public. The fueling facility will dispense a minimum of 14,280 million BTUs of CNG annually, averaged over a consecutive five-year period.

Project Schedule:

Project Start Date:	January 1, 2001
Construction Completion Date:	July 31, 2002
Project Completion	July 31, 2009

Project Milestones:

August 9, 2001	Bay Counties Waste Services, Inc. and the City of Sunnyvale awarded a contract Pinnacle CNG for natural gas fueling equipment.
February 1, 2002	Installation of CNG fueling infrastructure completed.
March 1, 2002	Payment request submitted to Air District.
July 31, 2002	Station operation commences.
September 15, 2002	Quarterly reporting commences
July 31, 2009	Project Completion.

Project Goal: The goal of this project is to reduce emissions of ozone precursors and particulate matter from vehicles operating within the jurisdiction of the Bay Area Air Quality Management District by providing natural gas fueling infrastructure.

ATTACHMENT C
MONITORING OF PROJECT PERFORMANCE

Construction Status Reports:

Due Dates: December 15, 2001; January 15, 2002

The City of Sunnyvale will submit brief project status reports to the Air District during the implementation of the project. Each report will provide a general statement on the status of the infrastructure installation, including any changes to the projected date of project completion.

Construction Final Report:

Due Date: July 31, 2002

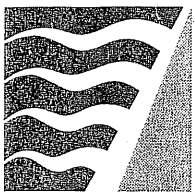
The Final Report shall contain the following:

1. Table of Contents
2. Abstract
3. A brief summary of the objectives of the project and how these objectives were accomplished.
4. A description of the CNG fueling infrastructure purchased and installed as part of the Project, including expected total throughput.
5. A consolidated list of subcontractors funding in whole or in part by the grant recipient. Include the name, address, concise statement of work done, period, and value of each.
6. A summary of the number and type of natural gas vehicles that will be refueled at facility, as well as any future plans to purchase similar vehicles.
7. A description of the availability of the infrastructure to the general public.
8. A summary of any problems encountered in the initial operation of the fueling equipment acquired with this grant.
9. Any findings, conclusions, or recommendations for follow-up or ongoing activities that might result from the successful completion of the project.
10. A statement of future intent of the grant recipient to maintain or further develop the project.

Quarterly Operational Reports:

Due Date: Quarterly starting on September 15, 2002 and ending with July 15, 2009.

The City of Sunnyvale will submit quarterly operational reports to the Air District for a minimum of five (5) years and a maximum of seven (7) years following the installation of the CNG fueling facility. Each report will provide information on the amount of fuel dispensed, by vehicle type, in the previous three months. Failure to report annual fuel throughput may result in repayment of the grant by the Grantee to the Grantor.



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

January 17, 2001

Tim Kirby
Solid Waste Program
City of Sunnyvale, DPW
P.O. Box 3707
Sunnyvale, CA 94088

RE: Project #00R17
Natural Gas Vehicle Purchase – 20 Refuse Trucks

Dear Mr. Kirby:

Enclosed is a signed copy of the Funding Agreement between the City of Sunnyvale and the Air District. We will forward the funds for the project in accordance with the schedule set forth in Attachment A of the Agreement.

Please refer to the above project number in all correspondence with the Air District. If you have any questions, please contact me at (415) 749-4982.

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Nichols".

Matt Nichols
Environmental Planner II

Enclosures

FUNDING AGREEMENT
BETWEEN
THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT
AND
CITY OF SUNNYVALE

PROJECT NUMBER

00R17

This Agreement is made and entered into between the City of Sunnyvale, hereinafter referred to as "Project Sponsor," and the Bay Area Air Quality Management District, hereinafter referred to as the "Air District." Attachment A, Project Specific Information; Attachment B, Project Description; and Attachment C, Monitoring of Project Performance are hereby incorporated into this Agreement by this reference.

SECTION I

RECITALS:

- 1) Air District is authorized under California Health and Safety Code Section 44223 to levy a fee on motor vehicles registered within its jurisdiction. Funds generated by the fee are to be used to implement projects and programs to reduce air pollution from motor vehicles.
- 2) Air District administers these funds as the Transportation Fund for Clean Air (TFCA).
- 3) California Health and Safety Code Section 44241 limits expenditure to specified eligible transportation control measures included in the clean air plan adopted pursuant to California Health and Safety Code Sections 40233, 40717, and 40919 and limits the allocation of the funds to public agencies within the Air District's jurisdiction.
- 4) Air District and Project Sponsor, pursuant to California Health and Safety Code Section 44241, hereby enter into this Funding Agreement (Agreement) to implement a transportation measure (Project) to improve air quality in the San Francisco Bay Area Air Basin.
- 5) The Project, as used in this Agreement, is described on Attachment B.

SECTION II

PROJECT SPONSOR AGREES:

- 1) To implement the Project in accordance with the description and implementation schedule contained on Attachment B.
- 2) To submit detailed invoices to the Air District for reimbursement of costs and expenses incurred to complete the Project consistent with the budget and schedule contained on Attachment A. Invoices shall specify the time period for the invoice, itemize staff charges to the Project, if any, indicating the number of hours worked on the Project; and itemize any payments to vendors, consultants, or contractors with an explanation of the goods or services provided for the Project.
- 3) To keep necessary records of Project activities, expenses and charges to document and support invoices submitted to the Air District.
- 4) To return to the Air District unexpended TFCA funds and/or interest earned on TFCA funds, if any, upon completion or termination of the Project.
- 5) To allow and facilitate Air District audit of Project performance and all expenditures relating to the Project funded through this Agreement.

- 6) To record on a time sheet those hourly labor costs incurred in the implementation of the Project which are paid with TFCA funds received under this Agreement, or to establish an alternative method approved by the Air District to document staff costs charged to the Project.
- 7) To use no more than five percent of the TFCA funds received under this Agreement for costs incurred in the administration of the Project consistent with the line item Project budget specified in Attachment A.
- 8) To keep necessary records of Project performance as specified on Attachment C.
- 9) To submit to the Air District all reports specified on Attachment C.
- 10) To use the Air District's approved logo for the Transportation Fund for Clean Air on any vehicles leased or purchased with TFCA funds, or on any other capital property purchased with TFCA funds that is visible to the public.
- 11) To use the Air District's approved logo for the Transportation Fund for Clean Air, or to acknowledge the Air District as a funding source, on any printed or electronic material for public distribution associated with the Project. Included as printed material are Project related schedules, brochures, handbooks, or promotional material. Included as electronic material are Project related Web Sites, electric signs, or e-mail broadcasts.
- 12) To acknowledge the Air District as a funding source for the Project in any related media events, articles, news releases or other publicity materials.
- 13) To assure that all funds received under this Agreement are expended only in accordance with all applicable provisions of law and with the terms and conditions of this Agreement.
- 14) To expend those "Matching Funds," if any, as listed on Attachment A, toward completion of the Project as described on Attachment B. In the event funding from other sources for the total cost of the Project as set forth in Attachment A is not received, in whole, by the Project Sponsor, the Air District reserves the right to renegotiate the terms and conditions of this Agreement.
- 15) To return to the Air District any funds realized from the sale of any motor vehicle(s) purchased with TFCA funds if such sale occurs within the industry standards for the useful life from the date of purchase of the motor vehicle(s). The amount of the funds returned to the Air District shall be proportional to the percentage of TFCA funds originally used to purchase the motor vehicle(s).
- 16) To place in the public domain any software, written document, intellectual property, process, technique, or product developed with TFCA funds as part of the Project.
- 17) To comply with those "Special Conditions," if any, listed on Attachment A.

SECTION III

AIR DISTRICT AGREES:

- 1) To pay within 30 calendar days of receipt, invoices for reimbursement of legitimate Project expenses submitted by the Project Sponsor, excepting that the Air District will retain fifteen percent (15%) of the "Total TFCA Regional Funds Awarded" as listed on Attachment A until the Air District's acceptance of the final report as specified on Attachment C.
- 2) To provide TFCA funds not to exceed the "Total TFCA Regional Funds Awarded" amount for this Project as listed on Attachment A.
- 3) To provide timely notice prior to conducting an audit.
- 4) To provide a copy of any fiscal audits of the Project as specified in California Health and Safety Code Section 44242.

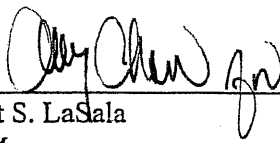
SECTION IV

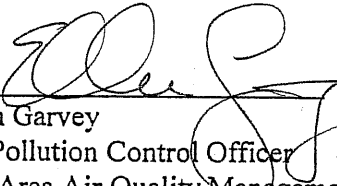
IT IS MUTUALLY AGREED:

- 1) Term: This Agreement will remain in effect for three (3) years after the completion of the Project unless terminated as provided below.
- 2) Termination: Either party may terminate this Agreement at any time by giving written notice of termination to the other party which shall specify the effective date thereof. Notice of termination under this paragraph shall be given at least ninety (90) days before the effective date of such termination. Upon receiving notice of termination, Project Sponsor shall immediately cease further expenditure of TFCA funds received under this Agreement. The Air District will reimburse Project Sponsor for qualifying expenditures on the Project made prior to the receipt of the notice of termination.
- 3) Indemnity: Project Sponsor shall indemnify and hold harmless the Air District its officers, employees, agents, representatives, and successors-in-interest against any and all claims, suits or actions resulting from the performance by Project Sponsor of its duties under this Agreement. Air District shall indemnify and hold harmless Project Sponsor its officers, employees, agents, and successors-in-interest against any and all claims, suits or actions resulting from the performance by Air District of its duties under this Agreement.
- 4) Notices: Any notice which may be required under this Agreement shall be in writing, shall be effective when received, and shall be given by personal delivery service or first class mail, to the addressees set forth on Attachment A, or to such addressees which may be specified in writing to the parties hereto.
- 5) Contacts: Project Sponsor and Air District persons to act as contacts and liaison with the Air District and the Project Sponsor with regards to the day-to-day activities of the Project are specified on Attachment A. All reports and correspondence are to be addressed to the "Contacts" listed on Attachment A.
- 6) Project Number: All correspondence shall reference the "Project Number" listed on Attachment A.
- 7) Additional Acts and Documents: Each party agrees to do all such things and take all such actions, and to make, execute and deliver such other documents and instruments, as shall be reasonably requested to carry out the provisions, intent and purpose of this Agreement.
- 8) Integration: This Agreement represents the entire Agreement of the parties with respect to the subject matter described in this Agreement, and no representation, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in other contemporaneous written agreements.
- 9) Amendment: This Agreement may not be changed, modified or rescinded except in writing and signed by the parties hereto. Any attempt at oral modification of this Agreement shall be void and of no effect. The Air District contact person and Project Sponsor contact person identified pursuant to paragraph IV.5 above may jointly authorize, in writing, any schedule revisions, budget line item revisions, or changes to the Project scope of work that do not diminish the emission reductions associated with the Project. Any other amendments to this Agreement must be executed in writing by the signators to this Agreement. Any change in Project scope must be approved by the Air District prior to implementation of the change by the Project Sponsor.

- 10) Independent Contractor: Project Sponsor renders its service under this Agreement as an independent contractor. None of the Project Sponsor's agents, subcontractors or employees shall be construed as agents or employees of the Air District. This paragraph does not apply to elected officials serving concurrently on the governing boards of both the Project Sponsor and Air District.
- 11) Assignment: This Agreement may not be assigned, transferred, hypothecated, subcontracted or pledged by any party without the express written consent of the other party.
- 12) Severability: Should any part of this Agreement be declared unconstitutional, invalid, or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this Agreement which shall continue in full force and effect; provided that, the remainder of this Agreement can, absent the invalid portion(s), reasonably be interpreted to give effect to the intentions of the parties.
- 13) Effective Date: The effective date of this Agreement is the date of signature by the Air Pollution Control Officer as listed on page 5.
- 14) Schedule for Eligible Costs: Only Project costs incurred after the "Air District Approval Date" listed on Attachment A, and before completion of Project and fulfillment of monitoring requirements or termination, whichever occurs first, are eligible to receive TFCA funds.
- 15) Cost Reduction: The Air District may reduce its contribution to the Project in the event that the "Total Project Cost" is less than the amount listed on Attachment A. Any reduction in TFCA funding shall be proportional to the percentage of TFCA funds provided toward the total project cost as noted on Attachment A.
- 16) Penalty: If the Air District finds Project Sponsor to be in violation of paragraphs II.9, II.10, or II.11 above, the Air District shall notify the Project Sponsor of the violation(s) and shall allow the Project Sponsor thirty (30) calendar days to cure said violation(s). If the Project Sponsor fails to remedy the violation(s) within thirty (30) calendar days, the Air District may decrease the total TFCA Regional Funds awarded for the Project by up to ten percent (10%).
- 17) Project Cost: Project cost overruns are the sole responsibility of the Project Sponsor. The Air District's funding obligation is limited to the "Total TFCA Regional Funds Awarded" as listed on Attachment A. Acceptance of this funding agreement obligates the Project Sponsor to deliver the Project according to the terms and conditions of this Agreement.
- 18) Force Majeure: Neither the Air District nor Project Sponsor shall be liable or deemed to be in default for any delay or failure in performance under this Funding Agreement or interruption of services, directly or indirectly, from the acts of God, civil or military authority, acts of public enemy, war, strikes, labor disputes, shortages of suitable parts, materials, labor or transportation, or any similar cause beyond the reasonable control of the Air District or Project Sponsor.
- 19) Governing Law: This Funding Agreement shall be construed and interpreted and the legal relations created thereby shall be determined in accordance with the laws of the State of California.

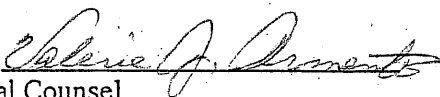
SIGNATURES:

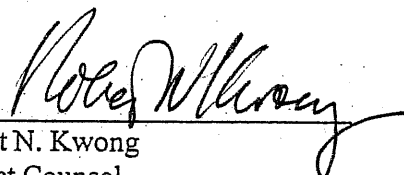
by: 
Robert S. LaSala
City Manager
City of Sunnyvale

by: 
Ellen Garvey
Air Pollution Control Officer
Bay Area Air Quality Management District

Date: 1-12-01

Approved as to legal form:

by: 
Valerie J. Arment
Legal Counsel
City of Sunnyvale

by: 
Robert N. Kwong
District Counsel
Bay Area Air Quality Management District

ATTACHMENT A PROJECT SPECIFIC INFORMATION

[Note: The section numbers shown in parenthesis below refer to Sections in the Funding Agreement.]

1. Project Sponsor: City of Sunnyvale
2. Project Number: 00R17
3. Total TFCA Regional Funds Awarded (Section III.2): \$1,000,000
4. Total Project Cost (Section IV.15): \$5,511,380
5. Matching Funds (Section II.13):

<u>Source</u>	<u>Amount</u>
City of Sunnyvale	\$ 722,957
Bay Counties Waste Services (BCWS)	\$3,788,423

Total Line Item Project Budget:

<u>Line Item</u>	<u>Amount</u>
Capital Equipment – Twenty new natural gas powered heavy-duty refuse trucks	\$5,511,380

7. Invoice and Payment Schedule (Section II.2):

The City of Sunnyvale will submit an invoice for reimbursement of the TFCA Regional Funds awarded under this Agreement along with the Final Report specified in Attachment C.

8. Notices (Section IV.4): Any written notice required is to be addressed to:

<u>Project Sponsor:</u>	<u>Air District:</u>
Mark A. Bowers	Ellen Garvey
Solid Waste Program Manager	Air Pollution Control Officer
City of Sunnyvale, Dept of Public Works	Bay Area Air Quality Management District
P.O. Box 3707	939 Ellis Street
Sunnyvale, CA 94088-3707	San Francisco, CA 94109

9. Contacts (Section IV.5): Contact persons for day-to-day activities of the Project are:

<u>Project Contact:</u>	<u>Air District:</u>
Tim Kirby	Matt Nichols
Solid Waste Program	Environmental Planner II
City of Sunnyvale, Dept of Public Works	Bay Area Air Quality Management District
P.O. Box 3707	939 Ellis Street
Sunnyvale, CA 94088-3707	San Francisco, CA 94109

10. Air District Approval Date (Section IV.14): September 6, 2000

11. Special Conditions (Section II.16):

The City of Sunnyvale will require that Bay Counties Waste Services (BCWS) operate the vehicles procured with this grant within the San Francisco Bay Area Air Basin for a minimum of seven years. The City of Sunnyvale will make this a condition of any fund transfer agreements between the City of Sunnyvale and Bay Counties Waste Services regarding this project.

The City of Sunnyvale will submit to the Air District for review and approval any fund transfer agreements between the City of Sunnyvale and Bay Counties Waste Services prior to their execution.

The City of Sunnyvale will provide the Air District with a copy of any agreements executed between Bay Counties Waste Services and itself to carry out the Project.

Any change in the engine specified for the refuse trucks must be approved by the Air District.

ATTACHMENT B
PROJECT DESCRIPTION

The TFCA funding application dated June 26, 2000 is incorporated herein by this reference.

Project Title: Natural Gas Vehicle Purchase – 20 Refuse Trucks

Project Description:

Bay Counties Waste Services, in cooperation with the City of Sunnyvale, will purchase twenty (20) new heavy-duty refuse trucks, consisting of nine (9) residential garbage trucks, five (5) residential yardwaste trucks, and six (6) commercial garbage trucks. Bay Counties Waste Services will have new Cummins Engine Company 8.3 liter compressed natural gas (CNG) engines installed in the twenty (20) new trucks as replacements for twenty (20) existing heavy-duty refuse trucks powered by diesel. The twenty new refuse trucks will be Volvo Expedito vehicles. The Cummins engines placed in the CNG heavy-duty refuse trucks must be certified to one of the California Air Resources Board's optional low-NOx standards for on-road heavy-duty engines.

Project Schedule:

Project Start Date: February 1, 2001
Project Completion Date: September 1, 2002

Project Milestones (if any):

February 1, 2001	Bay Counties Waste Services and City of Sunnyvale issue a purchase order for seventeen heavy-duty refuse trucks.
June 1, 2001	Bay Counties Waste Services and City of Sunnyvale issue a purchase order for three heavy-duty refuse trucks.
February 1, 2002	Seventeen new heavy-duty refuse trucks delivered to Bay Counties Waste Services and placed into service. Trucks will be fully equipped and ready for deployment.
June 1, 2002	Three new heavy-duty refuse trucks delivered to Bay Counties Waste Services and placed into service. Trucks will be fully equipped and ready for deployment.
September 1, 2002	Final Report submitted to Air District.

Project Goal: The goal of this project is to reduce emissions of ozone precursors and particulate matter from twenty heavy-duty refuse trucks used by Bay Counties Waste Services within the jurisdiction of the Bay Area Air Quality Management District.

ATTACHMENT C
MONITORING OF PROJECT PERFORMANCE

Quarterly Reports:

Due Dates: January 15, 2001, April 15, 2001, July 15, 2001, October 15, 2001, January 15, 2002, April 15, 2002, July 15, 2002

The City of Sunnyvale will submit brief quarterly reports to the Air District during the implementation of the project. Each quarterly report will provide a general statement on the status of the vehicle purchase and manufacture, including any changes to the projected delivery date of the vehicles.

Project Monitoring Requirements and Final Report:

Due Date: September 1, 2002

The Final Report shall contain the following:

1. A description of the heavy-duty trucks purchased as part of the Project, including make, model, engine type, and Vehicle Identification Numbers.
2. A summary of any problems encountered in the purchase or operation of the initial seventeen vehicles acquired with this grant.
3. Any future plans to purchase similar vehicles.

**SANTA CLARA VALLEY TRANSPORTATION AUTHORITY
CONGESTION MANAGEMENT PROGRAM
TRANSPORTATION FUND FOR CLEAN AIR
AGREEMENT
FY 2000/2001**

This Agreement is between the Santa Clara Valley Transportation Authority, (VTA) and the City of Sunnyvale (Sponsor).

This Agreement is made with reference to the following facts:

- A. VTA has been designated by the Cities of Santa Clara County and by the County as the Program Manager in Santa Clara County for Transportation Fund for Clean Air (TFCA) 40% funds.
- B. Pursuant to that designation, VTA is responsible for disbursing TFCA 40% funds to eligible project sponsors in accordance with its agreement with the Bay Area Air Quality Management District (BAAQMD).
- C. This Agreement specifies the conditions under which VTA will reimburse TFCA 40% funds to Sponsor for fiscal year 2000/2001.

Section 1. Description Of Projects, Grant Amount And Monitoring Requirements

Sponsor agrees to implement and complete the County Bicycle Route 3 and Refuse Truck Purchase Projects described in the project summary in Attachment A, which is attached hereto and incorporated herein, in consideration of a TFCA grant in an amount not to exceed \$250,000 (does not include local matching funds) furnished by VTA to Sponsor as provided herein. Sponsor shall comply with the project schedules and monitoring requirements described in Attachment A.

Section 2. Expenditure Of Funds

Sponsor shall submit invoices at quarterly intervals to VTA for reimbursement of costs incurred to implement the Projects. Sponsor shall include auditable back-up documentation (time sheets, bills, etc.) with each invoice. Upon review and approval of invoices and documentation, VTA shall reimburse Sponsor within 90 days of invoice submission for all eligible expenditures up to the maximum amount described in Section 1 of this Agreement. Unless otherwise stated in this Agreement, only those project costs incurred by Sponsor on or after July 1, 2000 shall be considered reimbursable expenditures. Funds for the Projects described in this Agreement which are not claimed for reimbursement by invoices submitted prior to October 31, 2002, shall no longer be available for said Projects.

Section 3. State Audit

This Agreement shall be subject to the examination and audit of the State Auditor pursuant to Government Code Section 8546.7 for a period of three years after final payment.

Section 4. Indemnification

Sponsor shall defend, indemnify and save harmless the VTA from all claims, suits or actions resulting from the performance by Sponsor of its duties under this Agreement.

Section 5. Additional Terms And Conditions

Sponsor shall:

- A. Limit administrative costs for fiscal oversight to no more than five percent of the funds received under this Agreement.
- B. Allow VTA or BAAQMD to audit all expenditures relating to the Projects and require all recipients of funds allocated under this Agreement to fully cooperate with such audits. For the duration of the Projects and for three years following completion of the Projects, Sponsor shall promptly furnish at the request of VTA or BAAQMD, or an independent auditor selected by VTA or BAAQMD, all records relating to Project performance and expenses incurred in implementing the Projects.
- C. Maintain employee hourly time sheets documenting the time spent by Sponsor's employees for the Projects, or use an alternative method, approved in advance by VTA or BAAQMD, to document staff costs charged to this grant.
- D. Require hourly employee time sheets to be maintained documenting the time spent by contractors or consultants who are paid by the hour in the implementation of the Projects with funds received under this Agreement, or use an alternative method, approved in advance by VTA or BAAQMD, to document staff costs charged to this grant.
- E. Keep necessary records of the performance of the Projects as specified in Attachment A to expedite evaluation of emissions reductions achieved from implementation of the Projects.
- F. Submit a mid-year progress report to VTA one month after the end of the second quarter of each fiscal year ("Fiscal year" means the period starting July 1, and ending June 30.) The report shall itemize (a) the expenditure of the funds and (b) progress to date in the implementation of each funded project.
- G. Submit a year-end report within two months of the end of each fiscal year until each project is completed and all monitoring requirements have been fulfilled. The report shall itemize (a) the expenditure of the funds, (b) progress to date in the implementation of each funded project and (c) the results of the monitoring of the performance of the Projects as specified in Attachment A.
- H. Use the BAAQMD's approved logo for the Transportation Fund for Clean Air for Projects, as specified below:
 - (1) The logo shall be used on signs posted at the site of any construction;

- (2) The logo shall be displayed on any vehicles operated with or obtained as part of the Projects;
 - (3) The logo shall be used on any printed material intended for public consumption associated with the Projects, including project related transit schedules, brochures, handbooks, maps created for public distribution, and promotional material.
- I. Credit VTA and BAAQMD as a funding source in any related articles, news releases or other publicity materials for the Projects which are produced or caused to be produced by the Sponsor.
 - J. Assure that all funds received under this Agreement are expended only in accordance with all applicable provisions of law for projects which are implemented by Sponsor, and to require the other recipients of grant funds for the Projects to do the same.
 - K. To the extent not otherwise prohibited by law, place in the public domain any software, written document, or other product developed with funds received through this Agreement.
 - L. Either obtain approval for alternate use of, or return to VTA, any funds realized from the sale or other disposition of any vehicles purchased with TFCA funds if the sale or disposition occurs before the useful life of the vehicle has expired as generally recognized within the industry. The amount of funds returned to VTA shall be proportional to the percentage of TFCA funds originally used to purchase the vehicles as compared to the total price paid for the vehicles. Any such funds returned to VTA shall be reallocated to eligible projects approved by VTA and BAAQMD.

VTA shall:

- A. Reimburse Sponsor's project costs as provided in Section 2, up to the maximum grant amount shown in Section 1.
- B. Review Sponsor's progress in implementing the Projects at the end of the sixth quarter following execution of this Agreement.
- C. If progress at the sixth quarter review is insufficient to implement the Projects or to expend the funds within the period described in Section 2, VTA shall develop an action plan with the Sponsor to ensure that these funds are not lost to the county. VTA may, at its discretion, reprogram funds to other projects within Santa Clara County to ensure their expenditure prior to the fund expiration date described in Section 2.

Section 6. Non-Performance

If Sponsor causes all or part of these funds to be lost to the countywide program as a result of failure to complete a project according to the workscope described in Attachment A, Sponsor's next grant allocation of any kind will be reduced by the amount lost.

Section 7. Amendments

Amendments to this Agreement and modifications to the Projects, shall be made in writing, and signed by both parties.

In Witness Whereof, the Parties have executed this Agreement as of the latest date shown below.

City of Sunnyvale
(Sponsor)

Dated: 7-31-01
Authorized by City Council, 11/14/00

Robert S. LaSala
Robert S. LaSala, City Manager

Approved As To Form:

Valerie J. Armento
Valerie J. Armento, City Attorney

Santa Clara Valley Transportation Authority
(VTA)

Dated: 8/20/00

Peter M. Cipolla
Peter M. Cipolla, General Manager

Approved As To Form:

Suzanne B. Gifford
Suzanne B. Gifford, General Counsel
8-18-00

ATTACHMENT A

PROJECT INFORMATION

A. Project Number: 00SC07 B. Project Sponsor: City of Sunnyvale

C. Project Contact: Jack Witthaus D. Contact Phone #: (408) 703-7330

E. Project Title: County Bicycle Route 3 - Sunnyvale Segment (Class 2, 2 mi.)

F. TFCA \$ Allocated: \$ 50,000 G. Total Project Cost: \$ 231,125

Other Funding:	Amount	Source
	<u>\$66,125</u>	<u>Transportation Development Act</u>
	<u>\$115,000</u>	<u>Jay Paul Company</u>

H. Project Description: The 2.05-mile project will revise roadway parking controls and striping to provide bike lanes on the Sunnyvale segment of Countywide Bicycle Route 3. This route follows Mountain View-Alviso Road, Lawrence Station Road, Elko Drive, Lawrence Expressway, Moffett Park Drive, and Manila Drive to provide an east-west travel corridor. This project will result in Class 2 bike lanes on approximately 85% of the Sunnyvale segment of Route 3. Beneficiaries of the project will include Route 237 corridor bicycle commuters as well as bicycle commuters and employers in the Moffett Industrial Park.

I. Project Schedule: Start Date (mo/yr) July 1, 2000 Final Report Due Date (mo/yr) October 31, 2002

J. Final Report Content: Complete and submit part 1 of Project Monitoring Form 3.

ATTACHMENT A

PROJECT MONITORING FORM 3 Bicycle Projects

TFCA Project # _____	Project Sponsor: _____
Project Title: _____	
Contact: _____	Phone: _____ E-mail: _____
TFCA \$ Expended: \$ _____	Total Project Cost: \$ _____
Project Start Date: _____	Completion Date: _____

Complete the section that applies to the type of bicycle project implemented. Use additional sheets as needed.

- 1. On Road Bicycle Improvements:** *Provide the following information for each segment of project. User counts should be performed on a weekday during the May-September period (excluding Bike to Work Week). Post-project count should be performed 3-6 months after completion of the facility. Counts may be performed for the entire day, or during the a.m. and p.m. peak periods, i.e. 7-9 a.m. and 4-6 p.m.*

Pre-Project Count						Post-Project Count			
Segment Name	Class 1, 2, or 3	Segment Length	ADT on Segment	Date	Hours of Count	# Bikes per Day	Date	Hours of Count	# Bikes per Day

- 2. Bicycle Lockers and Racks:** *Rack user counts should be performed anytime between 10 a.m. and 2 p.m. during a weekday in the May-September period (excluding Bike to Work Week).*

	# Units Installed	Total Bike Capacity	Cost per Unit	Manufacturer	Avg. # Users per Day
Lockers					
Racks					

Attach a map showing location(s) of lockers/racks. Describe methodology to determine user data.

- 3. Bicycle Racks on Buses:** *Count of rack users should be performed all day (7 a.m. to 7 p.m.) on a weekday in the May-September period (excluding Bike to Work Week).*

# Racks Installed	# Bikes per Rack	Cost per Unit	Manufacturer	Avg. # Rack Users/Day	Total Daily Passenger Boardings System-wide

- 4. Police Bicycle Projects:** *Based upon one year of operational experience with the bicycles.*

Type of Bike	# Bikes Purchased	Total Bike Patrol Hours per Year	Total Bike Patrol Miles per Year	Total Patrol Car Miles Reduced Per Year

ATTACHMENT A

PROJECT INFORMATION

A. Project Number: 00SC08 B. Project Sponsor: City of Sunnyvale

C. Project Contact: Marvin Rose D. Contact Phone #: (408) 730-7441

E. Project Title: Refuse Truck Purchase -- 4 CNG

F. TFCA \$ Allocated: \$ 200,000 G. Total Project Cost: \$ 416,020

Other Funding:	Amount	Source
	<u>\$216,020</u>	<u>City of Sunnyvale, Solid Waste Program</u>

- I. Project Description: The project will purchase 4 new heavy duty natural gas recycling trucks for use in curbside collection of recyclable materials in the City of Sunnyvale. The trucks will operate using engines which are certified to the California Air Resources Board's optional low-NOx standards of either 2.0 or 2.5 grams per brake horsepower hour of oxides of nitrogen, or deemed by CARB to be eligible under the Carl Moyer Program. The City of Sunnyvale manages refuse collection through an exclusive franchise to Bay Counties Waste Services (BCWS), doing business in Sunnyvale as Specialty Solid Waste and Recycling. BCWS currently provides refuse, yardwaste, and recyclables collection using 23 diesel-powered vehicles. The truck replacement schedule calls for the replacement of four curbside recycling trucks in fiscal year 2000/2001. Trucks operate in Sunnyvale, dump at the Sunnyvale Materials Recover and Transfer, and return to Santa Clara at the end of the day.

I. Project Schedule: Start Date (mo/yr) July 1, 2000 Final Report Due Date (mo/yr) October 31, 2002

J. Final Report Content: Complete and submit Project Monitoring Form 2.

ATTACHMENT A

PROJECT MONITORING FORM 2
Clean Air Vehicle Projects

Use this form for clean air vehicle projects, including infrastructure. Attach additional sheets as needed.

TFCA Project # _____		Project Sponsor: _____	
Project Title: _____			
Contact: _____		Phone: _____	E-mail: _____
TFCA \$ Expended: \$ _____		Total Project Cost: \$ _____	
Project Start Date: _____		Completion Date: _____	
Total # of Vehicles Acquired: _____			

Provide documentation of purchase and the following information for each clean air vehicle acquired:

Manufacturer	Model	ARB Certification (ULEV, SULEV, or ZEV)	Engine Size	Fuel Type	VIN	Month/Year Placed in Service

For projects funded prior to FY 99/00, provide the following information re: disposition of vehicles that were replaced.

Manufacturer	Model	Year	Engine Type/Fuel	VIN	Method of Disposition	Resale Price (if applicable)

If vehicles were scrapped, provide documentation that the VIN has been retired (engine block and frame/chassis destroyed). If vehicles were sold, submit vehicle sale/TFCA reimbursement form. Make check payable to Bay Area Air Quality Mgmt. District and specify "Account 49" on the check.

For refueling/recharging infrastructure projects describe the infrastructure installed, including location and capacity, public access policy, public access hours and user limitations.